

Shahid Haque-Hausrath, Esq.
312 N. Ewing St., 2nd Floor
Helena, MT 59601
(406) 594-2004

Written Testimony Regarding SB 379, Submitted April 1, 2009
House Judiciary Committee

Dear Committee Members,

I am writing in opposition to SB 379, which would make it a felony to transport, harbor, move, conceal, or shield an undocumented alien, or to encourage an undocumented alien to enter or remain in the state without status. This bill would also allow the state to seize property belonging to anyone involved in any of those offenses.

- This bill needlessly creates state crimes that are already being enforced by the federal government.
 - The federal government has a similar law codified at 8 U.S.C. § 1324, and the bureau of Immigration and Customs Enforcement (ICE) is actively enforcing this law. We have a strong ICE presence here in Montana, and we have not heard any evidence that the federal government is incapable of enforcing immigration laws in this state.
 - There are very few unauthorized aliens in Montana, and there is no compelling reason to require the state to enforce federal immigration laws. This state should not have to spend its limited time, money, and resources policing immigration laws that are the responsibility of the federal government. This is a waste of our taxpayer dollars and law enforcement resources.
- Contrary to the sponsor's assertions, this bill does not just target human traffickers. It applies to *anyone* who gets some form of private financial gain from an unauthorized alien. This could include anyone who provides paid services to an unauthorized alien, including doctors, landlords, taxi drivers, or even family members.
 - If someone houses a family member who lacks status, and that family member pitches in to help pay the bills, this could be considered private financial gain that would subject someone to felony charges.
- This bill contains broad forfeiture provisions that could be catastrophic for Montanans. The bill takes the expansive forfeiture laws intended for controlled substances violations and applies them to undocumented aliens.
 - Once again, these forfeiture provisions will not be applied only to human traffickers. The bill limits forfeiture provisions to offenses involving two or more unauthorized aliens. This means that people who shield families will be at risk of having their property seized.

- These forfeiture provisions troubled a lot of Senators, who saw no reason to destroy a person's livelihood by seizing their property. An amendment was made to prevent *real* property from being seized, but everything else, including expensive machinery and vehicles, can still be seized. In addition, under this bill, property can be seized without a warrant if the seizure is incidental to an arrest.
- The seizure and forced sale of equipment that is used to operate a farm or ranch could cause a family business to go bankrupt. Even the family vehicles could be seized and sold. So in the end, a farmer might have their house and land, but be left without any means of earning a living.
- Finally, this bill that attempts to create a presumption that an alien is undocumented as along as the "United States government" says so. This violates due process by attempting to shift the burden of proof in criminal felony proceedings. It is also contrary to federal law, which requires the *government* to prove that an alien is unauthorized.
 - The bill doesn't define "United States government." The United States government is comprised of many different agencies, most of which have no authority at all to determine the immigration status of an individual.
 - This bill goes too far and violates due process by imposing a blanket presumption against the accused based on what the "United States government" says. Instead of being innocent until proven guilty, this law tries to shift the burden onto the defendant to prove that someone *was not* an unauthorized alien.
 - Even in civil removal proceedings the government has the burden of proof to establish deportability by clear and convincing evidence. But in a criminal case, there can be no question that an accused defendant is entitled to full due process protections, including a presumption of innocence. This bill violates that right.

For all of these reasons, and those stated by the other opponents, I urge you to vote "do not pass" on SB 379.

Sincerely,



Shahid Haque-Hausrath, Esq.